

167 FERC ¶ 61,226
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

June 17, 2019

In Reply Refer To:
Southwestern Public Service Company
Docket No. ER19-1613-000

Jones Day
51 Louisiana Ave, NW
Washington, DC 20001

Attention: Kenneth B. Driver

Dear Mr. Driver:

1. On April 18, 2019, pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's regulations,² Xcel Energy Services Inc., on behalf of Southwestern Public Service Company (SPS), filed revisions to the production formula rate templates (Production Templates), formula rate implementation procedures (Protocols), and wholesale fuel cost and economic purchased power adjustment clause (Fuel Clauses) included as attachments to five separate, bilateral long-term wholesale power supply agreements.³ SPS also proposes to revise the Production Template in a power supply agreement it has with West Texas Municipal Power Agency (West Texas). In this order, we accept the proposed revisions, effective June 1, 2019, as requested.

2. SPS states that the proposed revisions allow SPS to recover the cost of, and establish the wholesale ratemaking treatment for benefits associated with, SPS's first SPS-owned wind generation facility (Hale Wind Project), which will be placed in

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2018).

³ The agreements are each between SPS and, separately, Central Valley Electric Cooperative, Inc.; Lea County Electric Cooperative, Inc.; Farmers' Electric Cooperative Inc. of New Mexico; Roosevelt County Electric Cooperative, Inc.; and Golden Spread Electric Cooperative, Inc. (Golden Spread).

service in late June 2019. SPS states that the implementation of the proposed revisions will result in an annual rate decrease of approximately \$1,209,000 for requirements customers.⁴ SPS states that the proposed revisions will (1) permit SPS to allocate the capital investment costs and operations and maintenance (O&M) costs associated with the Hale Wind Project using an energy allocator rather than a demand allocator; (2) permit SPS to pass-through to customers the benefits of the production tax credits (PTC) as they are received by SPS during the first 10 years that the Hale Wind Project is in service, rather than as the PTCs reduce SPS's federal income taxes; and (3) establish initial depreciation rates for the Hale Wind Project at the depreciation rates approved by the New Mexico Public Regulatory Commission for SPS's New Mexico retail rates.⁵

3. SPS also proposes to revise the Production Template in the power supply agreement with West Texas to reflect that West Texas will stop purchasing power under that agreement effective May 31, 2019 but will remain subject to the Production Template thereunder until after SPS calculates the 2019 Annual True-up in mid-2020. SPS states that because it will discontinue production service to West Texas before the Hale Wind Project is placed in service, but West Texas will remain subject to the West Texas Production Template through the calculation of the 2019 annual true-up, the West Texas Production Template is being revised to eliminate the capital investment and O&M costs associated with the Hale Wind Project.⁶

4. SPS states that it will use the revised Production Templates for requirements customers for all months in 2019 when SPS calculates the 2019 annual true-up. SPS notes that the inclusion of the Hale Wind Project costs in SPS's 2019 FERC Form No. 1 beginning June 1, 2019 results in SPS's plant and plant-related FERC Accounts including the December 2019 end of year balances for the Hale Wind Project, affecting the 2019 Annual True-Up for all months of 2019. SPS states that if SPS calculates the 2019 Annual True-Up using the currently effective Production Templates, SPS's wholesale production customers would pay for the Hale Wind Project costs on a demand basis for the period January to May 2019 and on an energy basis for the period June to December 2019. SPS states that in order to correctly calculate and allocate the costs of the Hale Wind Project in wholesale production rates effective June 1, 2019, it will use the revised requirements customers' Production Templates and the revised West Texas Production Template for all of 2019 in calculating the 2019 annual true-up. SPS explains that doing

⁴ SPS Transmittal at 1.

⁵ *Id.* at 9.

⁶ *Id.* at 1-2, 16.

so will ensure that the Hale Wind Project costs are allocated on an energy basis for all of 2019 and that the costs are recovered from SPS's wholesale production customers that benefit from the Hale Wind Project.

5. SPS states that the June 2019 in service date for the Hale Wind Project and the use of an energy allocator to allocate the costs creates certain transition issues. First, SPS proposes to revise the estimated charges billed to the requirements customers beginning June 1, 2019 to include the Hale Wind Project as a known and measurable change. SPS states that its Protocols do not contemplate mid-rate year updates to estimated charges, but that the inclusion of the Hale Wind Project costs in SPS's production rates effective June 1, 2019 will allow SPS to recover the costs and include the Fuel Clause benefits in SPS's wholesale production rates the same month the Hale Wind Project is placed in service. SPS states that the Hale Wind Project costs will then also be included in the 2019/2020 rate year estimated charges effective July 1, 2019, as a known and measurable change to the costs reported in the 2018 SPS FERC Form No. 1.⁷

6. Second, SPS states that a note in new Table 17.1 provides that SPS will use the revised requirements customers' Production Templates and the revised West Texas Production Template for all months in 2019 when SPS calculates the 2019 annual true-up. SPS states that, consistent with its Protocols, SPS will calculate the 2019 annual true-up in May 2020 using the currently effective Production Templates based on data reported in the 2019 SPS FERC Form No. 1. SPS states the actual charges for 2019 will then be applied to each of the requirements customers' 2019 monthly invoices and West Texas's 2019 monthly invoices to determine the 2019 annual true-up, and any refund or surcharge will be calculated, plus interest, and applied to customer invoices in late summer 2020, resulting in one-time refunds or surcharges.⁸

7. SPS states that this new note is needed because the Protocols establish two discrete production rate time periods for 2019. SPS states that the first time period begins on January 1, 2019 and ends June 30, 2019 (First Time Period). During the First Time Period, the estimated charges are based on the 2018 rate year calculations and rely on SPS's 2017 FERC Form No. 1 actual cost data in addition to known and measurable changes for the rate year beginning July 1, 2018 and ending June 30, 2019 (2018/2019 Rate Year). SPS states that the Hale Wind Project costs were not included in the estimated charges for the 2018/2019 Rate Year. SPS states that the second time period begins July 1, 2019 and ends on December 31, 2019 (Second Time Period), and that during the Second Time Period, the estimated charges will be based on SPS's 2018

⁷ *Id.* at 17.

⁸ *Id.*

FERC Form No. 1 actual cost data plus known and measurable changes, including those set forth in its filing. SPS states that it will include the Hale Wind Project costs in the estimated charges for the rate year beginning July 1, 2019 and ending June 30, 2020 (2019/2020 Rate Year).⁹

8. SPS also proposes to revise the Protocols to modify the calculation of base fuel cost and to add depreciation rates for the Hale Wind Project to the table of depreciation rates. SPS states that it developed the initial depreciation rates using the applicable components of a 25 year life and negative 8.5 percent salvage value by FERC Account.¹⁰

9. SPS further proposes to revise its Protocols and the Fuel Clauses to immediately provide the economic benefits associated with the PTCs to its requirements customers.¹¹ Specifically, SPS proposes to add language netting any grossed-up PTCs in the calculation of the base fuel cost. SPS states that it is revising the Fuel Clauses to add a new section 2(ix) providing that grossed-up PTCs will be subtracted from SPS's total company fuel costs. SPS notes that it is not waiting for the PTCs to reduce its federal income taxes and will credit the PTCs associated with the Hale Wind Project to the requirements customers as they are produced by reducing fuel charges.

SPS requests waiver of the Commission's prior notice requirements to permit the proposed revisions to become effective June 1, 2019, less than 60 days after filing. SPS also requests waiver of its Protocols to allow SPS to use the revised Production Template and Protocols to calculate the estimated charges effective June 1, 2019. SPS further requests waiver, to the extent necessary, to allow it to calculate the 2019 annual true-up consistent with the note in new Table 17.1, which would ensure that the costs of the Hale Wind Project are allocated on an energy basis for all of 2019. In addition, SPS requests waiver of any requirement to submit cost-of-service statements.¹² SPS states that the

⁹ *Id.*

¹⁰ *Id.* at 14.

¹¹ *Id.*

¹² Specifically, SPS requests waiver of the following sections of the Commission's regulations: sections 35.13(d)(1)-(2) (Period I and II data for Statements AA through BM), section 35.13(d)(5) (workpapers related to Period I and II data), and section 35.13(h) (cost-of-service statements).

Commission has routinely granted such waiver requests in similar proceedings where a party has proposed to implement or modify a formula rate.¹³

10. Notice of SPS's April 18, 2019 filing was published in the *Federal Register*, 79 Fed. Reg. 17,153 (2019), with interventions and protests due on or before May 9, 2019. Western Farmers Electric Cooperative and West Texas filed timely motions to intervene. Golden Spread filed a motion to intervene and comments.

11. Golden Spread states that full recognition of the PTC, at a level consistent with the estimate filed by SPS in support of this request, is a crucial element of this proposal and any benefits that may ultimately be derived by affected wholesale customers. Golden Spread also notes that the full cost impacts of the Hale Wind Project on wholesale customers taking service within the SPS zone of Southwest Power Pool, Inc. are unknown at this point, and this filing only addresses impacts on production costs.

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

13. We find that SPS's proposed revisions to its power supply agreements are just and reasonable and accept them, effective June 1, 2019, as requested.¹⁴ We find that Golden Spread's comments regarding the full cost impacts of the Hale Wind Project and the flow through of expected benefits are outside the scope of this proceeding, which addresses production costs. Based on SPS's representation that the proposed revisions represent a rate decrease, we grant SPS's request for waiver of prior notice to allow the requested effective date of June 1, 2019.¹⁵

¹³ SPS Transmittal at 23 (citing *Pub. Serv. Co. of Colo.*, 166 FERC ¶ 61,156, at P 37 (2019)).

¹⁴ We do not agree that SPS requires a waiver of its Protocols to allow it to use the revised Production Template and Protocols to calculate the estimated charges effective June 1, 2019 or a waiver to allow it to calculate the 2019 annual true-up consistent with the note in new Table 17.1. SPS's Protocols do not preclude mid-year updates submitted pursuant to section 205 of the FPA, and SPS's instant filing and proposed note satisfy all necessary requirements.

¹⁵ *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992) ("We will generally grant waiver of the 60-day prior notice requirement ... [for] filings that reduce rates and charges—such as rate decreases").

14. We grant SPS's requested waiver of sections 35.13(d)(1), (2), and (5) and 35.13(h) of the Commission's regulations regarding the provision of full Period I and II data and cost-of-service statements, consistent with the Commission's prior approval of formula rates.¹⁶ SPS proposed to revise formula rate provisions using a combination of sources of data including company records and FERC Form No. 1 data and, therefore, we find that full Period I and Period II data are not needed for an evaluation of the justness and reasonableness of SPS's proposed formula rate revisions.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ See, e.g., *S. Cal. Edison Co.*, 136 FERC ¶ 61,074, at P 29 (2011); *Xcel Energy Servs., Inc.*, 122 FERC ¶ 61,098, at P 75 (2008); *Commonwealth Edison Co.*, 119 FERC ¶ 61,238, at PP 93-94 (2007); *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219, at P 57 (2007); *Am. Elec. Power Serv. Corp.*, 120 FERC ¶ 61,205, at PP 40-41 (2007); *Allegheny Power Sys. Operating Cos.*, 111 FERC ¶ 61,308, at PP 55-56 (2005), *order on reh'g*, 115 FERC ¶ 61,156 (2006).